

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14454 Rima Faber Wolff, pursuant to Sub-section 8207.2 of the Zoning Regulations for a special exception under Paragraph 3101.42 to establish a private school of dance, 15 students, one teacher, in the R-1-B District at premises 4201 - 16th Street, N.W., (Square 2697, Lot 58).

HEARING DATE: July 16, 1986

DECISION DATE: July 16, 1986 (Bench Decision)

FINDINGS OF FACT:

1. The subject site, known as premises 4201 16th Street, N.W., is located in the northeast corner of the intersection of 16th Street and Upshur Street. It is located in an R-1-B District.
2. The lot is rectangular in shape with a frontage of 22 feet along 16th Street and along a 16 foot wide public alley to the rear. It has a depth of 90.50 feet. It is improved with a three and a half story brick semi-detached residence.
3. The R-1-B District extends to the north and south of the site. Saints Constantine and Helen School and Church are located to the south across Upshur Street. An R-4 District, developed primarily with single family attached residential units, is located to the east of the site.
4. Pursuant to Sub-section 8207.2 of the Zoning Regulations the applicant is seeking a special exception under Paragraph 3101.42 to establish a private school of dance for 15 students and one teacher at the site.
5. Classes taught at the site will be only those for artistic concert dance. Most classes will be accompanied by a pianist playing an upright spinet. When cassetts tapes are used they will be played at normal volume. Storm windows will be installed throughout the house.
6. The dance students will be well disciplined and are not expected to create noise problems for the surrounding neighborhood. The students will not remain outside the dance studio unattended.

7. The two parking spaces required by the Zoning Regulations will be provided at the rear of the site. The applicant has also made arrangements with the neighboring church to allow students to use their parking facilities which enter and exit off of 16th Street. This will ensure that students will not increase traffic nor park along Upshur Street.

8. Five to ten vehicles generally arrive for each class. Bus stops are located directly in front of the site and across the street.

9. The applicant will reside in the structure and conduct the classes in the living and dining rooms.

10. The bulk of the classes offered are for children. Class size is limited to 15 students. Some classes, particularly those for adults, are very small having as few as two students. Due to the request of neighborhood residents a class will be offered for senior citizens.

11. Classes will be held between 9:30 A.M. and 8:00 P.M. Monday through Friday and 10:00 A.M. to 12:00 noon Saturdays. Most classes will be held after school in the afternoons. Two evening classes will be offered each week.

12. No exterior alterations will be made to the building. A small plaque not to exceed 122 square inches will be placed beside the door with the name of the applicant and school, "The Primary Movers".

13. By memorandum dated July 7, 1986 the Office of Planning (OP) recommended approval of the application subject to the condition that only one sign not to exceed 144 square inches in area may advertise the use. The OP reported that it did not expect traffic or parking problems to result from the school's operation. The Board concurs with the reasoning and recommendation of the OP.

14. By letter dated July 1, 1986 Advisory Neighborhood Commission (ANC) 4C reported that it recommended approval of the subject application. Minutes of the ANC meeting were included in the submission. No grounds for the support were stated in the report.

15. Numerous neighbors of the site including those immediately adjacent submitted letters to the record or testified in support of the application. A petition in support was also submitted to the record. Grounds for their support included the applicant's concerns that the program not impact negatively on the neighbors and the cultural and artistic contributions the program would make.

16. A letter was submitted to the record from neighbors of the school at its previous location. The neighbors reported that the school never created any noise or traffic problems.

17. A representative of the Rock Creek East Neighborhood League testified in opposition to the application on the grounds that it would allow a commercial venture into a residential area. The Board notes that the school is a non-profit organization and a use predeemed compatible with residential uses subject to review by the BZA.

18. One letter was submitted to the record in opposition to the application by neighbors of the subject site. They wrote that they objected to having the neighborhood disrupted by the activities of the school which will generate noise and traffic and create parking congestion. The Board finds that the applicant has taken steps to assure that the neighborhood will not be disrupted by the school.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record the Board concludes that the applicant is seeking a special exception, the granting of which requires substantial evidence that the applicant has complied with the requirements of Paragraph 3101.42 and Sub-section 8207.2 of the Zoning Regulations. Paragraph 3101.42 allows for the establishment of a private school provided that:

3101.421 It is so located that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions:

3101.422 Ample parking space, but not less than that required in Article 72 of these regulations, is provided to accommodate the students, teachers, and visitors likely to come to the site by automobile.

The Board concludes that the applicant has met its burden of proof. The location and the program are not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions and that the site has sufficient parking spaces to accommodate the students, teachers and visitors likely to come to the site by automobile. The Board further concludes that the special exception can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and it will not affect adversely the use of neighboring property.

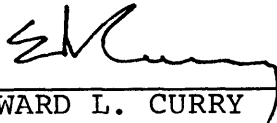
Accordingly, it is ORDERED that the application is GRANTED,
SUBJECT to the following CONDITIONS:

1. Signage shall not exceed 144 square inches.
2. Two parking spaces shall be provided at the site.
3. No students shall remain unattended on the exterior of the premises.
4. Operation of the school shall be limited to the applicant.
5. Hours of operation shall not exceed 9:00 A.M. to 9:00 P.M., Monday through Friday and 9:00 A.M. to 12:00 Noon, Saturdays.
7. The maximum number of staff shall be two.

VOTE: 5-0 (Paula L. Jewell, Maybelle T. Bennett, Charles R. Norris, William F. McIntosh, and Carrie L. Thornhill to grant)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: SEP 26 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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